

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

In re:
IKO ROOFING SHINGLE PRODUCTS
LIABILITY LITIGATION

MDL Docket No. 2104
ALL CASES

[PROPOSED] PRETRIAL ORDER NO. 3
APPOINTING PLAINTIFFS' MANAGEMENT STRUCTURE,
LIAISON COUNSEL AND INTERIM CLASS COUNSEL

I. APPOINTMENT AND DUTIES OF CO-LEAD COUNSEL

A. The Court appoints Co-lead counsel consisting of the following:

Clayton D. Halunen and Halunen & Associates;

Charles E. Schaffer and Levin, Fishbein, Sedran & Berman; and

Robert K. Shelquist and Lockridge, Grindal & Nauen, LLP.

Co-lead counsel shall be generally responsible for conducting the prosecution of the litigation on behalf of plaintiffs.

B. In Addition to the above, Co-lead Counsel shall:

(1) determine and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the plaintiffs on all matters arising during pretrial proceedings;

(2) coordinate the initiation and conduct of discovery on behalf of plaintiffs consistent with the requirements of Fed. R.Civ.P.26, including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;

(3) supervise the efforts of other counsel or committees of counsel, in their discretion, in a manner to ensure that pretrial preparation for the plaintiffs is conducted efficiently, effectively and non-duplicatively;

(4) maintain adequate time and disbursement records for plaintiffs' counsel;

(5) monitor the activities of all plaintiffs' counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided, including the avoidance of unnecessary or duplicative communications among plaintiffs' counsel;

(6) conduct settlement negotiations on behalf of plaintiffs, but not enter binding agreements except to the extent authorized;

(7) enter into stipulations with opposing counsel as necessary for the conduct of the litigation;

(8) prepare and distribute periodic status reports to the parties; and

(9) perform such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the Court.

(10) Establish and maintain a depository for orders, pleadings, hearing transcripts, and all documents served upon plaintiffs' counsel, and make such papers available to plaintiffs' counsel upon reasonable request.

C. The Court appoints Jon D. Robinson and Bolen, Robinson & Ellis, LLP as Liaison Counsel. Liaison Counsel, in addition to interfacing with Co-Lead Counsel in furtherance of their duties (enumerated above), shall act as liaison with the Court and opposing parties and shall:

(1) maintain and distribute an up-to-date service list to all counsel;

(2) receive and, as appropriate, distribute Orders from the Court and documents from opposing parties and counsel to co-counsel;

(3) maintain and make available to co-counsel at reasonable hours a complete file of all documents served by, or upon, each party except such documents as may be available at a document depository;

(4) establish and maintain a document depository, including electronic depositions with remote access, if appropriate.

D. Plaintiffs' Executive Committee. The Court appoints Charles J. LaDuca of Cuneo Gilbert & LaDuca, LLP and Michael McShane of Audet & Partners, LLP as Co-Chairmen of the Plaintiffs' Executive Committee who shall have the same responsibilities as Co-lead Counsel. The Court further appoints as members of Executive Committee:

Michael J. Flannery and Carey & Danis; and

Nancy A. Pacharzina and Tousley, Brain, Stephens, PLLC.

E. To the extent delegated by Co-lead Counsel, members of the Executive Committee shall execute the Orders of the Court concerning the conduct of the litigation. This includes participation in drafting pleadings, motions, oral argument, written discovery, depositions, or pre-trial preparation and settlement. Co-lead Counsel may organize and delegate to other plaintiffs' counsel, members of the Executive Committee other matters to the extent appropriate for the efficient prosecution of the case.

F. In working with Co-lead Counsel to prosecute the case, members of the Executive Committee will assist in assuring that the case is handled efficiently and cost effectively, and will only engage in work assigned to them by Co-lead Counsel or Liaison Counsel.

G. Pursuant to Fed. R. Civ. P. 23(g), the Court appoints Co-lead and Liaison to act as Interim Class Counsel.

H. Defendants' counsel may rely upon all agreements and representations made with or by Co-Lead Counsel or Liaison Counsel.

I. Reimbursement for costs and/or fees for services of all plaintiffs' counsel performing functions in accordance with this order will be set at a time and in a manner established by the Court after due notice to all counsel and after a hearing. The following standards and procedures are to be utilized by any counsel seeking fees and/or expense reimbursement.

General Standards

(1) All time and expenses submitted must be incurred only for work authorized by the Co-Lead Counsel or Liaison Counsel.

(2) These Time and Expense Guidelines are intended for all activities performed and expenses incurred by counsel that relate to matters common to all claimants in MDL 2104.

(3) Time and expense submissions must be submitted on the forms prepared by Co-Lead Counsel and approved by the Court.

(4) Time and expense submissions must be submitted timely, on a monthly basis, to Co-Lead Counsel, Robert K. Shelquist, Lockridge, Grindal, Nauen, PLLP, 100 Washington Avenue South, Suite 2200, Minneapolis, MN 55401.

(5) All submissions shall be transmitted electronically or in hard copy to Co-Lead Counsel. If hard copy submissions are made, an original and one duplicate copy must be provided.

(6) The first submission is due on March 15, 2010 and should include all time through February 28, 2010. Thereafter, time records shall be submitted on the 15th of each month and shall cover the time period through the end of the preceding month.

Time Reporting

(1) Only time spent on matters common to all claimants in MDL 2104 will be considered in determining fees. No time spent on developing or processing any case for an individual client (claimant) will be considered or should be submitted.

(2) All time must be accurately and contemporaneously maintained. Time shall be kept according to these guidelines. All counsel shall keep a daily record of their time spent in connection with this litigation, indicating with specificity the hours, location and particular activity (such as “conduct of deposition of A.B.”). The failure to maintain such records, as well as insufficient description of the activity may result in a forfeiture of fees.

(3) All time for each firm shall be maintained in quarter-of-an-hour increments. Failure to do so may result in time being disallowed.

(4) All time records shall be submitted together with a form summarizing the total of member firm time broken down by each separate name of time keeper and Litigation Task Definition, the time spent during the preceding month and the accumulated total of all time incurred by the firm during the particular reporting period. The summary report form may be obtained from Plaintiffs’ Liaison Counsel.

(5) The summary report form shall be certified by a senior partner each month attesting to the accuracy and correctness of the monthly submission.

J. Privileges Preserved. No communication among plaintiffs' counsel or among defendant's counsel shall be taken as waiver of any privilege or protection to which they would otherwise be entitled.

II. SUBSEQUENT ACTIONS

This Order will apply to all subsequent "tag-along" actions related to this litigation. A copy of this Order shall be served on counsel of all subsequent "tag-along" in related actions by Liaison Counsel.

ENTERED this ____ day of _____, 2010

MICHAEL P. McCUSKEY
CHIEF U.S. DISTRICT JUDGE